

REMARKS

Claims 1-35 are pending in this application. Claims 1 and 10 have been amended and claims 36-51 have been added by the present Amendment. Amended claims 1 and 10 and new claims 36-51 do not introduce any new subject matter.

Claims 21 and 23-35 have been withdrawn from consideration without prejudice pursuant to 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention and have been canceled without prejudice by the present Amendment. In addition, claims 7 and 16 have been canceled without prejudice by the present Amendment.

REJECTIONS UNDER 35 U.S.C. § 102

Reconsideration is respectfully requested of the rejection of claims 1, 2, 9-12, 19 and 20 under 35 U.S.C. § 102(b) as being anticipated by Japanese Patent No. 2002-082339 ("Matsuoka").

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); M.P.E.P. § 2131.

Applicants respectfully submit that Matsuoka does not disclose or suggest the at least one spacer having a compression deformation equal to or larger than about 0.40 microns in response to about 5 gf, as recited in amended claims 1 and 10. Therefore, Applicants respectfully submit that claims 1 and 10 are not anticipated by Matsuoka. In addition, for at least the reason that claims 2 and 9 depend from claim 1, and claims 11-

12, 19 and 20 depend from claim 10, claims 2, 9, 11-12, 19 and 20 are also not anticipated by the cited reference.

Therefore, Applicants respectfully request that the Examiner withdraw the rejection of claims 1, 2, 9-12, 19 and 20 under 35 U.S.C. § 102(b) and that claims 1, 2, 9-12, 19 and 20 are in condition for allowance.

Reconsideration is respectfully requested of the rejection of claims 1-6, 9-15, 18-20 and 22 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Pub. No. 20050099577 ("Lee").

Applicants note that the present application claims priority under 35 U.S.C. § 119 to Korean Patent Application No. 2002-70705, filed on November 14, 2002 ("705 application"). Lee has a U.S. filing date of August 20, 2003 and was published on May 12, 2005. Therefore, the priority date of the present application antedates both the U.S. filing and publication dates of the cited reference.

Accordingly, pursuant to sections 2136.03, 706.02(b) and 201.15 of the Manual of Patent Examining Procedure, M.P.E.P. §§ 2136.03, 706.02(b) and 201.15 (Rev. 3, Aug. 2005), Lee may be precluded from being used as a ground for rejection if Applicants perfect priority by submitting an appropriate English translation of the '705 application. Accordingly, Applicants enclose herewith an English translation of the certified copy of the '705 application and a statement that the translation is accurate.

Therefore, Applicants submit that because the foreign priority date of the '705 application (November 14, 2002) is prior to the both the U.S. filing and publication dates of Lee (August 20, 2003 and May 12, 2005, respectively), Lee cannot be used as a

section 102 reference.

Further, Applicants note that the Examiner is not entitled to rely on Lee's Korean priority dates because Lee did not result or claim the benefit of an international application that designated the United States and was not published in English under PCT Article 21(2). See M.P.E.P. § 706.02(f)(1).

Accordingly, for at least the reason that Lee cannot be used as a prior art reference, Applicants respectfully submit that original claims 1-7, 9-16, 18-20 and 22 are not anticipated by Lee. Further, claim 1 and 10, as amended and remaining claims 2-6 and 9 and 11-15, 18-20 and 22 respectively dependent thereon, are also not anticipated by Lee.

Therefore, Applicants respectfully request that the Examiner withdraw the rejection of claims 1-6, 9-15, 18-20 and 22 under 35 U.S.C. § 102(e), claims 7 and 16 having been canceled.

PROVISIONAL REJECTION UNDER 35 U.S.C. § 103(a)

Reconsideration is respectfully requested of the provisional rejection of claims 8 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of copending Application No. 10/672,304 ("304 application"). Applicants respectfully submit that for at least the reason that Lee cannot be used as a prior art reference (see above), claims 8 and 17 are patentable over the cited references.

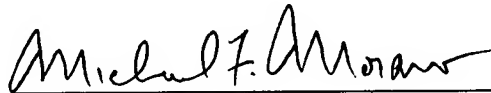
As such, Applicants respectfully submit that claims 8 and 17 are patentable over Lee, in view of the '340 application and respectfully request that the Examiner withdraw the provisional rejection of claims 8 and 17 under 35 U.S.C. § 103(a).

NEW CLAIMS

Applicants respectfully submit new claims 36-51 for consideration and that new claims 36-51 are patentable over the cited references for at least the reason that the cited references do not disclose or suggest at least one spacer formed over the thin film transistor, as recited in claim 36, and at least one spacer overlapping the thin film transistor, as recited in claim 42.

An early and favorable reconsideration is earnestly solicited. If the Examiner has any further questions or comments, the Examiner may telephone Applicants' Attorney to reach a prompt disposition of this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael F. Morano", written over a horizontal line.

Michael F. Morano
Reg. No. 44,952
Attorney for Applicants

F. CHAU & ASSOCIATES, LLC
130 Woodbury Road
Woodbury, NY 11797
(516) 692-8888